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# WORLD LAW BULLETIN

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## **WORLD LAW BULLETIN**

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## ASIA

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## INTERNATIONAL LAW & ORGANIZATIONS

**EUROPEAN UNION**

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## ASIA

### ARMENIA – Mass Media Law

The Law on Mass Information was adopted by the legislature and entered into force upon promulgation by the President of the Republic. The Law reflects principles of freedom of speech and democracy building and follows recommendations suggested by the Council of Europe. For the first time in Armenian legislation, the Law introduces State protection for journalists when performing their professional activities and grants journalists the right to not disclose their sources of information. Under the Law, an information source may be revealed in closed court if the demand for disclosure is approved by the court and a case against the journalist is initiated. The Law eliminates the existing practice of mass media registration and eliminates from the Code of Administrative Violations liability for publication and dissemination of information without a preliminary registration. Information dissemination may be restricted in wartime or in emergency situations only, or under a court ruling if the information contains State secrets or promotes illegal actions. (*ARKA - Armenian National News Service*, <http://www.securities.com/>, Jan 15, 2004.) (Peter Roudik, 7-9861)

### AZERBAIJAN – Public TV Law

The Law on Public Television will enter into force as of February 1, 2004. The Law provides for the creation of a new public broadcasting system that will be administered by a Broadcast Council whose nine members should have no affiliation with any political party. The Council selects the broadcaster's Director General, who serves a five-year term and whose appointment requires approval of the president of Azerbaijan. The Council's major duties include licensing broadcasters and controlling transmission frequencies. The Law emphasizes the prohibition against local TV stations translating and airing foreign programs. In regard to mass media sponsorship, the Law stipulates that news broadcasts, news releases, and political information programs cannot be sponsored or prepared with sponsors' money. Simultaneously, the Law lifted previously existing restrictions on television advertisement of alcoholic beverages. None of the recommendations expressed by the Council of Europe during the drafting of this Law—e.g., on programming content, appointments of reporters and other staff, etc.—were incorporated. (*Radio Free Europe/Radio Liberty Newslines*, <http://www.rferl.org/>, Jan. 9, 2004.) (Peter Roudik, 7-9861)

### CHINA – Court Copyright Explanation

The Supreme People's Court of China recently issued an explanation of the Copyright Law as applicable to the Internet; the document came into effect on January 7, 2004. According to the Court, works that have been published in newspapers or elsewhere on the Internet may be used or copied as long as the person using the work fulfills two obligations—to pay for the usage and to credit the source of the work. In addition, the author must not have stated that no part of the work may be used without permission. (“New Explanations on Copyright Laws,” *Sinocast China Business Daily News*, Jan. 13, 2004, via LEXIS/NEXIS, Asiapc library.) (Constance A. Johnson, 7-9829)

## CHINA – Industrial Safety Regulations

Against a backdrop of thousands of mine accidents across China every year and numerous fireworks factory explosions resulting in injuries and death, the State Council adopted the Regulations on Licenses for Safe Production on January 7, 2004, effective as of January 13. The Regulations stipulate that all mines, construction firms, and producers of hazardous chemicals, fireworks, and explosives for civilian use must first obtain a “safe production license.” Enterprises that fail to meet safe production requirements and cannot obtain a license will be prohibited from continuing production.

The license will be valid for three years and must be renewed three months before expiration. To obtain one, an enterprise must standardize its operational procedures to ensure safe production, establish administrative supervision over production, provide safety education and training to employees, furnish infrastructure and equipment to meet safety demands, and prepare emergency plans and rescue equipment, among other steps. Any enterprise that operates without a license or in violation of the Regulations will be ordered to stop production immediately and will be subject to a fine of 50,000 to 100,000 *yuan* (about US\$6,046 to \$12,092) and potential criminal liability if major accidents have occurred. (“Regulations on Licenses for Safe Production Issued,” *Business Daily Update*, Jan. 20, 2004, via LEXIS/NEXIS, News library; “China Promulgates New Industrial Production Safety Regulations,” *Xinhua*, Jan. 19, 2004, via FBIS.) (Wendy Zeldin, 7-9832)

## INDIA – Arrest of Women

On October 15, 2003, the Supreme Court of India overturned on appeal the August 26, 1994, judgment of the Maharashtra High Court, which stated that no woman could be arrested in the absence of a female police constable. The judgment had further directed that an arrest of a woman either before sunrise or after sunset was unlawful. The High Court judgment had been lauded by rights activists as a landmark law in defense of women’s rights and extending women’s protection against violence by the police.

Now a coalition of rights groups, lawyers, and media persons has launched a signature campaign against the Supreme Court judgment. The Supreme Court observed that a woman could be arrested “at any time of the day or night,” in spite of the absence of a female constable, if the arresting police office is reasonably satisfied that the presence of one is not possible. The Court further held that the arresting officer should not delay the arrest or impede the course of investigation in the event of a woman constable being unavailable.

The opponents say that this judgment provides one more tool for the police to use against women. According to India’s National Crime Records Bureau (NCRB), in 2001, 144,608 women were arrested for cognizable offenses (when police may arrest without warrant) under the Indian Penal Code, 1860. According to the available records, women constitute one percent of the armed police force. Thus, the activists insist that there is an acute dearth of trained women in the Indian police and that, rather than directing the police to recruit more female officers, the Court has absolved them from the responsibility to provide such officers to arrest women. (*The Hindustan Times*, Dec. 23, 2003.) (Krishan Nehra, 7-7103)

**INDIA – Parliament Dissolution, Prelude to Elections**

As a prelude to holding general parliamentary elections, the Government requested the President of India to dissolve the Parliament on February 6, 2004, after the two Houses passed the Finance Minister's "vote-on-account" proposals on February 4, 2004. Accordingly, on February 6 the Prime Minister invoked article 83(2) of the Constitution on presidential dissolution of the Parliament by issuance of a proclamation to that effect the same day.

Upon the issuance of the Proclamation, the Election Commission of India will then have the task of finalizing the dates of the next parliamentary elections. It is likely that the Commission will inform the Government that it will hold the general elections soon after the first week of April 2004. The polling will probably be in four phases, to enable relocation of security forces so that counting may be completed by the first week of May 2004. (*The Hindu*, Jan. 13, 2004.)  
(Krishan Nehra, 7-7103)

**JAPAN – Aviation Law Amendment in Effect**

In response to the October 2001 call from the International Civil Aviation Organization to contracting states to enact national law and regulations to deal effectively with the problem of unruly or disruptive passengers, Japan amended the Aviation Law in July 2003 (Law No. 123 of 2003). A newly added provision clearly prohibits passengers' acts that may endanger safety or jeopardize in-flight order, such as operating a device to open or close a door without reason, smoking in a lavatory, or operating a specified portable electronic device while on board. If someone continues such an act after a captain orders the person to stop, the person may be subject to criminal sanction and a fine of up to 500,000 *yen* (about US\$4,500). The amended Aviation Law came into effect on January 15, 2004. (Ministry of Land, Infrastructure, and Transport, *Kokuki nai ni okeru anzen sogai koi tou no boshi no tameno kaisei kokuho no seko ni tuite* (Concerning Enforcement of the Amended Aviation Law in Order to Prevent Disturbance of Safety in Airplanes), <http://www.mlit.go.jp/koku/kinameiwaku.htm>.)  
(Sayuri Umeda, 7-0075)

**KOREA, SOUTH – U.S. Civilian Officer Sentenced to Prison**

In a case that attracted significant attention in Korea, on January 9, 2004, a South Korean judge sentenced Albert McFarland, a civilian employee of U.S. Forces Korea (USFK), to six months in prison. He was charged with violating a water-quality law for ordering two of his subordinates in February 2000 to pour out 227 liters of formaldehyde. The fluid eventually flowed through sewage treatment systems into the Han River, the main source of drinking water for Seoul's 12 million people. Environmentalists claimed that the amount of formaldehyde could have killed more than 7,000 people. However, USFK and South Korean officials concluded that the embalming fluid was significantly diluted with other wastewater and posed no health threat.

USFK insisted that the offense occurred during duty hours, so that the United States has jurisdiction under the U.S.–South Korea status of forces agreement (SOFA). USFK indicated that it would not hand over custody of the employee, regardless of the outcome of the trial even at the appellate level. The Korean Justice Ministry said the SOFA status does not apply to civilian employees of USFK regardless of whether they are on or off duty.

The court also imposed a travel ban on the civilian employee on January 10, 2004. A U.S. soldier on active duty may enter or leave Korea without a visa. However, civilian employees of USFK is still required to report to the South Korean Immigration Bureau, even if they depart from the U.S. Air Base via a military aircraft, according to the Foreign Affairs and Trade Ministry. McFarland has appealed the judgment. (Jeremy Kirk and Choe Song-won, "Jurisdiction at Issue As Army Officer Who Oversaw Formaldehyde Disposal Sentenced," *Stars and Stripes*, Pacific edition, Jan. 11, 2004; Byun Duk-kun, "USFK Employee Appeals Jail Term," *Korea Times* Jan. 15, 2004.) (Sayuri Umeda 7-0075)

### **MALAYSIA – Party Says Police Banned Rally**

On January 18, 2004, the Malaysian police banned an anti-government rally held in a two west of Kuala Lumpur. Members of jailed opposition politician Anwar Ibrahim's People's Justice Party stated that police had sealed off a community hall and ordered the crowd to disperse. Two men were detained for about three hours after arguing with the police. The group had hoped to hear speeches from their leadership criticizing the current government and to build support in advance of the next general elections, expected this year. Police officials did not confirm the group's report.

Anwar Ibrahim was the Deputy Prime Minister under former Prime Minister Mahathir Mohamad, until he was fired and then arrested in 1998. He claims the sodomy and corruption charges on which he has been sentenced to 15 years of imprisonment were fabrications. The current Prime Minister, considered a successor to Mahathir Mohamad, took office in October 2003. Opposition leaders have cited the recent incident as evidence that the new administration will not respect human rights and freedom of speech. ("Malaysian Police Ban Planned Anti-Government Rally," *China Post*, Jan. 20, 2004, at <http://www.chinapost.com.tw>.) (Constance A. Johnson, 7-9829)

### **MALAYSIA – Proposal To Whip Rapists**

Two recent well-publicized cases of brutal rapes and murders of 10-year old girls in different parts of Malaysia have resulted in a proposal to publicly whip child sex offenders and set up a register of their names. Rais Yatim, the current Law Minister, has said he will make the proposal at the next Cabinet meeting. "The number of sex crimes, especially against children, is rising and we must curb this," he stated. The plan includes establishing a register that would monitor the activities of sex offenders after they have completed sentences, something that is not currently done by the police. Changes in the Criminal Procedure Code are also being considered, with the goal of accomplishing swift justice by stipulating a time frame for police investigations.

The Bar Council has opposed the proposed whipping, arguing that there is no proof it would reduce crimes against children. The President of the Council, Kuthubul Zaman, stated that "We are against public flogging as there is no proven correlation. The punishment of death for rape-cum-murder and maximum jail sentence for rape should be sufficient deterrents."

The criminals in the two cases are believed to be drug addicts, and so the government is also expected to review anti-drug strategies. The Prime Minister has cited the 90 percent relapse rate among those who have been through drug rehabilitation programs as an indication that current policies need reform. ("Rais To Propose to Cabinet Public Flogging for Rapists," *New Straits Times Press*, Jan. 21, 2004, and "Malaysian Child Rapes Spark Plans for Public Whipping, Sex Register," *Channel NewsAsia*, Jan. 21, 2004, both via LEXIS/NEXIS, Asiapc library.)

(Constance A. Johnson, 7-9829)

### **SINGAPORE – Credit Card Rules Eased**

Effective February 19, 2004, the Monetary Authority of Singapore (MAS) will make three key changes to its strict credit card rules. Cardholders will be allowed to take out an unlimited number of supplementary cards for relatives; at present they are restricted to two. Provided they are studying abroad, the MAS will make an exception to the ban on youth under the age of 21 holding a supplementary card. Financial institutions will be permitted to send out in the mail unsolicited new credit cards, but only to existing customers. Other restrictions remain in effect, however. A minimum annual income of S\$30,000 (about US\$17,600) will still be required for credit card ownership, and the maximum limit will remain twice one's monthly income (which includes the amounts borrowed on all the supplementary cards). ("MAS Eases Some Credit Card Rules," *Channel NewsAsia*, Jan. 19, 2004, via LEXIS/NEXIS, News library.)

(Wendy Zeldin, 7-9832)

### **SINGAPORE – Terrorist Detentions To Continue**

The two-year period of detention of the first batch of 13 persons being held under Singapore's controversial Internal Security Act (ISA) expired in January 2004, but the Government announced on January 14 that the detainees would remain imprisoned for at least two more years. No official explanation was given for the prolonged detention. The Home Affairs Ministry also announced that the total number of accused Islamic militants being held without trial, mostly alleged members of the Jemaah Islamiyah terrorist group, had reached 37 since the crackdown against them began in 2001 and publicly gave the name of a Singapore man, Alahuddeen Abdullah, accused of being a member of a Filipino separatist group, who has been detained since October 2002.

The extra prison time for the 13 suspects, as well as the long delay in announcing Abdullah's detention, prompted calls from ISA opponents such as the chairman of Singapore's minor opposition Democratic Progressive Party for the detainees to be tried in open court. An Amnesty International spokesperson contends that "the ISA violates the right to a fair and public trial and the right to be presumed innocent until proved guilty." A government pamphlet on the Act, however, states that "the power of preventive detention in the ISA is used when prosecution is not practical and the threat is real and must be dealt with." ("Singapore Winning JI Battle, But Critics Lash Out at Detention Laws," *AFX.COM*, Jan. 15, 2004, via LEXIS/NEXIS, News library.)

(Wendy Zeldin, 7-9832)

### **TAIWAN – Media Law Amendments**

On December 24, 2003, the Legislative Yuan amended the Radio and Television Law, the Cable Radio and Television Law, and the Satellite Radio and Television Law. Among other changes, the amendments prohibit the government and political parties from investing in electronic media businesses, either directly or indirectly through foundations. Any such investments already in effect must be withdrawn within two years after the amendments take effect. Government officials and political party personnel are also prohibited from investing in, founding, or members of the board, supervisors, or executives of broadcast enterprises. Persons holding such positions must resign within six months of the amendments' taking effect. The relatives of political party staff or of elected or appointed officials are limited to one percent ownership of the total share offerings of media businesses. (*Taiwan: Amendment to Radio and Television Law*, Summary ID 158285, *Taiwan: Amendment to Cable Radio and Television*



Law, Summary ID 158307, *Taiwan: Amendment to Satellite Radio and Television Law*, Summary ID 158065, all in the Global Legal Information Network (GLIN), at <http://www.loc.gov/law/glin>; “Taiwan LY Closes With New Media Ownership Law,” *Taiwan Journal*, Jan. 16, 2004, via FBIS.) (Wendy Zeldin, 7-9832)

## EUROPE

### AUSTRIA – Patients’ Rights

Over the past four years, the Austrian Federation has concluded agreements on patients’ rights with seven of the nine Austrian states. The latest of these was concluded on December 30, 2003, with the state of Vorarlberg [*Bundesgesetzblatt* I No. 127/2003]. These charters contain an extensive codification of human and social rights for patients, some of which are already guaranteed by legislation while others constitute far-reaching innovations. Among the guaranteed rights are the patient’s rights of privacy, information, self-determination, and adequate medical treatment — irrespective of ability to pay. The latter right does not apply to aliens who, absent contributory payments, must be treated only in life-threatening situations, when birth is imminent, or to avert serious health impairments.

The patient charters are agreements within the meaning of article 15 (a) of the Austrian Constitution [*Bundes-Verfassung*, *Bundesgesetzblatt* No. 1/1930, as amended]. According to the constitutional provisions and their judicial interpretation, such agreements are not self-executing and the Federation has not promised to enact any new legislation. (Edith Palmer, 7-9860)

### AUSTRIA – Railroad Reform

A Federal Railroad Restructuring Act of December 30, 2003 [*Bundesgesetzblatt* I No. 138/2003], aims at modernizing the heretofore State-run national railroad. The Act splits the Federal Railroad into a holding company and nine subordinated companies. The most important of these are four corporations. One of them is entrusted with passenger transportation, another one with freight, and the remaining two with the construction and maintenance of rolling stock, railroad tracks, and buildings. The law appears to indicate that these four stock companies and the holding company must be 100-percent owned by the Austrian Federal Government.

In recent years, the Austrian Federal Railroad had been operating at a deficit, which was caused in part by a failure to lay off redundant personnel. A newly created Service Company aims at ameliorating this problem by leasing unneeded personnel to the private sector. The Act calls for implementation of the reforms over the next two years. (Edith Palmer, 7-9860)

### BELGIUM – Restructuring of the Army

Belgian Minister of Defense Andre Flahaut unveiled on December 4, 2003, his plan for the restructuring of the armed forces within the next three years. The future Belgian Army will be smaller but more flexible, more mobile, better equipped, and able to engage in combat more rapidly, based on the view that present world conditions make it impractical to keep the army on national territory as a purely defensive force. At present, only about 40% of the army is ready for foreign engagement. After restructuring, about 68% of the forces will be ready to intervene abroad. The army will have 35,000

men, a reduction of 5,000 from the present 40,000, but is to be better trained and equipped. It will be composed of units rather than brigades and battalions. The 2005 budget will show a 0.5% increase to provide for new defense equipment, e.g., armored vehicles with increased firepower, new tanks, new transport vehicles, and new artillery equipment. There will be a reduction to about 60 of combat aircraft but an increase in transport helicopters. Due to its limited resources, Belgium could not take part in a major conflict without relying on a multinational force with respect to heavy equipment. (*Le Soir en ligne* <http://www.lesoir.be/>, Dec. 4, 2003.) (George E. Glos, 7-9849)

### **CROATIA – Changes in Family Legislation**

New family legislation entered into force in Croatia in December 2003. The set of new laws—including the Law on Marriage and Family, the Law on Gender Equality, and the Law on Same-Sex Unions—creates new definitions of marriage, the family, and common-law marriage. The Law on Marriage and Family extends family status to common-law marriages, defining them as unions between an unmarried man and unmarried woman who have lived together for at least three years and have a child together. The marriage age is set at 18, but the Government will still allow underage marriages in justifiable cases. Another legal novelty is making motherhood a refutable presumption that can be either disputed or proved in court, allowing a woman with whose donor egg a child is conceived to contest the maternity rights of the woman who gives birth.

In regard to adoption, the Law on Marriage and Family reduces the time for determining maternity or paternity and ensures better protection of secrecy in the adoption process. The age difference between an adoptive parent and an adopted child is extended to 45 years. The role of social services in the adoption process is increased. In order to secure better protection of the rights of children, the Law provides for the possibility of taking children away from parents and family members who neglect them and gives the child the right to a guardian. Under the new Law, a court, instead of social services, will decide on the child's rights. However, the Law requires the involvement of social services in the divorce process, as mediators. In order to punish domestic violence, the Law provides that abusers may be removed for a period of up to three months from the domicile they share with the victims. Abusers can also be issued a restraining order for a period of up to one year.

The Law on Same-Sex Unions gives homosexuals living together the right to financially support their partners and to regulate property relations. (*NIHA-English Language Service*, Dec. 27, 2003, published by *ISI Emerging Markets*, at <http://www.securities.com/>.) (Peter Roudik, 7-9861)

### **ESTONIA – Flag Day Announced**

The Parliament of Estonia has declared June 4, the day in 1884 on which Estonia's national blue, black, and white flag was consecrated as the flag of a student association, as national Flag Day. Estonia declared its independence under this flag in February 1918 and formally adopted it as the national flag on November 21 of the same year. The flag was reinstated as the national symbol at the end of the Soviet occupation in 1991. Simultaneously, amendments to the Law on Public and National Holidays, which proclaims Flag Day as a non-working public holiday, were adopted. Currently, Estonia has one national holiday, eleven non-working public holidays and eight other flag days per year dedicated to different kinds of flags and the events they represent. (*BNS Baltic News Service*, Jan. 19, 2004, at <http://www.securities.com/>.) (Peter Roudik, 7-9861)

## FRANCE – Court Decision Against Morgan Stanley

On January 12, 2004, the Paris commercial court ordered Morgan Stanley to pay €30 million (about US\$37.5 million) in moral damages to Moët Hennessy Louis Vuitton (LVMH). LVMH had filed a lawsuit against Morgan Stanley on October 2002 alleging that investment advice published over a three-year period by Morgan Stanley analyst Claire Kent contained systematically erroneous and biased information designed to denigrate LVMH and to boost its rival Gucci's share price. LVMH also claimed that Morgan Stanley hid its business relationship with Gucci. Morgan Stanley had denied all charges and had contended that the lawsuit was motivated by lasting enmity over its role in helping Gucci evade a takeover by LVMH in 1999.

The court found that Morgan Stanley's structure did not provide for a strict separation between its investment and financial analysis services. It noted that the Security and Exchange Commission and the New York State Attorney General had arrived at the same conclusion in an earlier case. The court ruled that Morgan Stanley had committed a "serious fault" causing "considerable moral and financial harm" to LVMH and that it had failed to insure the independence of its research analysts and instead had linked their financial analyses to the investment banking activities. The court also appointed an expert to evaluate the extent of financial losses sustained by LVMH as a result of Morgan Stanley's conduct.

Morgan Stanley is likely to appeal the decision. Its president stated that the judgment was "terrifying for analysts" and that it will be difficult from now on to give critical analysis. He added that "this opens the floodgates for companies to use the threat of legal action to persuade analysts to make only positive statements about them." ("Jugement du Tribunal de Commerce de Paris prononcé le 12/01/2004, entre SA LVMH Moët Hennessy Louis Vuitton et Société Morgan Stanley & Co International limited," RG 2002093985, & *Le Monde*, <http://www.lemonde.fr>, Jan. 13, 2004.) (Nicole Atwill, 7-2832)

## FRANCE – Reform of Family Allowances

Parliament created a new "young child's early days benefit" (*prestation d'accueil du jeune enfant*, PAJE) for children born or adopted from January 1, 2004, onwards, replacing a number of existing schemes. This benefit is based on a promise made by President Jacques Chirac during his presidential campaign. It is part of a series of measures to encourage families to have more children.

The PAJE has three components: 1) a child bonus of €800 (about US\$1000) awarded in the seventh month of pregnancy; 2) an allowance of €160 per month for the first three years; and 3) a supplement to be used for childcare. The two first components are means tested, but the threshold is high and it is estimated that approximately 90 percent of families will qualify.

The choice of the form of the third component (which is not means tested) is left to the parents. There are two possibilities, a supplement to be used for purchasing childcare for parents who choose to continue their professional activities or a supplement to be used for financing time off from work to care for their child. In the first case, the amount received per month for the first three years is €151.78, €253, or €354.19 depending on the income of the parents. For children from three to six years of age, the supplement decreases to €75.89, €126.52, or €177.11. If a parent decides to stop working, the allowance is €340 a month, reduced to €219.75 or €126.77 if the parent works part-time. (*Le Monde*, Dec. 31, 2003, at 7 & Decrees 2003-1993 & 2003-1394, *Journal Officiel*, at 102, 104.) (Nicole Atwill, 7-2832)

**GERMANY – Extradition of Yemeni Terrorist to the United States Upheld**

On November 5, 2003, the Second Panel of the Federal Constitutional Court [docket number 2 BvR 1506/03] refused to accept a constitutional complaint by a Yemeni citizen whose extradition to the United States had been approved by a German appellate court. The petitioner had been lured from Yemen to Germany by a Yemeni citizen who was an agent of the United States under the pretense of meeting financial donors for his terrorist cause in Germany. After his arrival in Germany, the United States petitioned Germany for extradition and Germany complied by detaining the petitioner and by setting the extradition proceeding in motion. The petitioner and the Republic of Yemen claimed that the conduct of the United States constituted a kidnapping in violation of international law.

The Constitutional Court found that no general rule of international law existed that had been violated. The Court also disregarded the petitioner's claims that the United States would violate due process in its interrogation method. The Court held that a certain amount of trust had to be extended to the United States because of the existing bilateral extradition treaty (signed June 20, 1978, 32 UST 1485, TIAS 9785). Moreover, the United States had promised to try the extradited person in a regular criminal trial in the United States and not to put him before a military tribunal or to detain him outside the country. (Edith Palmer, 7-9860)

**LATVIA – Foreigners Allowed To Work as Private Detectives**

The Latvian Parliament has adopted amendments to the Law on Private Detective Operations, which, after enlargement of the European Union, will allow private detective firms headed by persons holding other than Latvian citizenship and lacking State language skills, to operate in Latvia. The Law repeals a former provision that had required the head of a private detective company to be a Latvian citizen and to have Latvian language proficiency in conformity with the State language law. The revised Law also makes it possible to issue licenses for work in Latvia to detective firms headed by persons who have a previous criminal record but whose culpability has been retracted or cancelled. Thus far Latvia has issued licenses to 17 entities for carrying out private detective operations and detective certificates to 38 private individuals. The Law was revised in such a way as to ensure compliance of Latvia's national legislation with EU requirements. (*BNS-Baltic News Service*, Jan. 9, 2003, at <http://www.securities.com/>.) (Peter Roudik, 7-9861)

**LIECHTENSTEIN – Amendment of the Constitution**

The Constitution of Liechtenstein of October 5, 1921, as amended, was again amended by the Constitutional Law of March 16, 2003 (LGBl. 2003, No. 186, of Sept. 15, 2003). Among various provisions, the amendment contains provisions on the courts. All judges are to be appointed by the Prince after selection proceedings and their election by Parliament. They are to be independent in the exercise of their functions and can be removed only for cause. The amendment establishes a Supreme Administrative Court (*Verwaltungsgerichtshof*), which was previously constituted as a section in the State Court (*Staatsgerichtshof*). It is comprised of five judges and another five substitute judges appointed by the Prince for a term of five years. Every year one judge and one substitute judge are to be replaced by new appointees and the five judges elect a presiding judge from among themselves. If a judge cannot act, his substitute takes over. The Court hears appeals against decisions of the government and government commissions (art.102).

The amendment deals also with measures that can be taken against the ruling Prince. Any 1,500 citizens may present to the Parliament a reasoned motion of no confidence in the ruler. If the motion is approved, Parliament orders a referendum on the issue. A referendum that results in a majority for the Prince's censure may lead to his removal and substitution by the member of the princely family next in line to rule (art.13ter).

The amendment also provides for a procedure to abolish the monarchy and declare a republic. Any 1,500 citizens may begin an initiative to that end and submit it to a referendum. If accepted by the voters, Parliament must prepare a republican constitution and present it to the voters in a referendum within one to two years. The ruling Prince can also prepare a new constitution to be voted on in the referendum. If there is only one proposal, it carries if it is approved by an absolute majority of votes. If there are two proposals, the voters can decide between the existing constitution and any one of the new proposals. Voters have two votes each to vote for any two of the three options. The two options obtaining the most votes are then the subject of a new vote within 14 days. The one that obtains an absolute majority of votes becomes the new Constitution (art. 113).  
(George E. Glos, 7-9849)

#### **THE NETHERLANDS – Biometric Passport Features**

In 2004, two biometric features, facial and finger scans, will be added on a trial basis in several communities to passports and to Dutch identity cards. Persons who request these travel documents will be asked to participate in this trial on a voluntary basis. Since the facial scan would allow for fraud by "look alikes," the finger scan, which appears to be the most suitable biometric feature to determine someone's identity, was included in the trial. (Ministry of the Interior, *Press Release*, <http://www.minbzk.nl/>, Dec. 29, 2003.)  
(Karel Wennink, 7-9864)

#### **THE NETHERLANDS – Iris Scan of Airport Employees**

In order to increase the security at Schiphol Airport, employees will soon only be able to enter secured areas there, such as the boarding and luggage areas and the hangars, with a special pass that uses the iris scan for identification. The new pass stores not only the information about the iris, but also the person's weight. This way the scan can be effective even if the employee is carrying another person into the secured area. If the weight of the employee is substantially higher than the weight that is recorded on the pass, admission is automatically refused. For passengers who frequently use the airport, the iris scan has already been in use in order to speed up their entry. (*NRC-Handelsblad*, Dec. 12, 2003.)  
(Karel Wennink, 7-9864)

#### **UKRAINE – Campaign Finance Law**

A new law signed on December 22, 2003, by President Leonid Kuchma of Ukraine provides for State funding of political parties' activities and parliamentary campaigns. State-funded activities may not be linked to a party's participation in elections, but the law provides for reimbursement of campaign expenses for parties that reach a four percent threshold of parliamentary representation. The annual funding allocations for political parties under the new law are defined as one percent of the average minimum wage per month (currently about US\$40) multiplied by the number of votes received in the most recent regular parliamentary elections. The Law will come into force on January 1, 2005. (*Interfax News Report*, Dec. 23, 2003, at [www.interfax.ru.](http://www.interfax.ru/))  
(Peter Roudik, 7-9861)

**UKRAINE – President Allowed To Run for Third Term**

The Constitutional Court of Ukraine ruled that incumbent President Leonid Kuchma is eligible to run for a third term in elections due to be held in October 2004. The ruling was made at the request of 100 Ukrainian legislators, who had asked for an official interpretation of the 1996 Constitution, which limits the President to two consecutive terms. President Kuchma was elected in 1994 and in 1999, after the Constitution was adopted. The parliamentarians claimed that the president has been elected under the provisions of the current Constitution only once and thus may be reelected. The Constitutional Court supported this opinion in its ruling. (Official website of the Ukrainian President, [www.president.gov.ua/eng/](http://www.president.gov.ua/eng/), Dec. 30, 2003.) (Peter Roudik, 7-9861)

**NEAR EAST****ISRAEL – Raising of Mandatory Retirement Age**

The Knesset (Israel's Parliament) passed the Retirement Age Law, 5754-2004 on November 5, 2003. The Law states as its objective the establishment of uniform rules regarding the age of retirement, its gradual increase, and the entitlement to retirement benefits. The Law declares the age of mandatory retirement, after which pensions are paid, to be 67 for men and 62 for women. A public committee for reevaluation of the retirement age for women born after 1950 is to be established. Despite the mandatory retirement age, the Law permits a determination by agreement of a higher retirement age, or of a lower one subject to the employer's responsibility to cover additional expenses. Explanatory notes for the bill cite as its justification the continuing rise in life expectancy and the higher proportion of seniors in Israeli society compared with the overall population. (<http://www.knesset.gov.il>.) (Ruth Levush, 7-9847)

**ISRAEL – TV Broadcasts from the Knesset**

A law establishing a special TV channel dedicated to the Knesset passed on December 22, 2003. The channel will broadcast all Knesset plenum and committees sessions, national events conducted by the Knesset, and programs that deal with Knesset affairs or are designed to cultivate civil awareness and to strengthen democratic values. The law states that the objectives of the Knesset channel are, among others, to improve the accessibility and involvement of Israeli citizens with the democratic and parliamentary process and to strengthen their trust in the system of government, thus contributing to the strength and unity of Israeli society. The Knesset channel will operate by a body selected by tender and licensed by the Knesset committee in accordance with rules and regulations. (<http://www.knesset.gov.il>.) (Ruth Levush, 7-9847)



## SOUTH PACIFIC

### AUSTRALIA – Approval of Growth Hormones for Cattle

The Australian Pesticides and Veterinary Medicines Authority, which regulates the import and use of all drugs for animal consumption, has issued a report approving the use of hormone growth promotants (HGP) for cattle. The Authority found no evidence for claims that consumption of meat from cattle fed the hormones led to cancer or early onset of puberty in humans. It thus opposed the claims of the European Union, which is currently in a WTO dispute with the United States over the EU ban on importing cattle treated with HGPs. HGPs have already been used in Australia, and the report finds no grounds for amending Australia's regulatory position, which is that there is unlikely to be any appreciable health risk to consumers from eating meat from cattle treated with HGPs according to good veterinary practice. (Australian Pesticides and Veterinary Medicines Authority, *Report on the Human Safety of Hormonal Growth Promotants*, Dec. 2003, at <http://www.apvma.gov.au/>; *Sydney Morning Herald*, Dec. 31, 2003, at <http://www.smh.com.au/>.) (Donald DeGlopper, 7-9831)

### AUSTRALIA – New Security Rules for Foreign Visitors

On January 8, 2004, Australia's Department of Foreign Affairs and Trade confirmed that Australia is working on implementation of new rules that would require visitors from abroad to carry passports containing biometric data such as a digitized facial image. In order to comply with changes in rules for entry to the United States, all Australian passports issued after October 2004 will contain biometric identification data. Australia intends to adopt its own version of the United States passport security measures. On January 15, 2004, the Australian Attorney-General disagreed with the conclusions of a report by the Director of the Australian National University's College of Diplomacy recommending that Australia only permit the use of electronic travel authorities for visitors from countries with no record of terrorist activities. The electronic travel authority, Australia's version of a visa waiver, may be applied for over the Internet or through travel agents and permits visitors from a large set of developed countries to enter Australia without interviews by Australian consular officers. Inasmuch as such countries as the United States, the United Kingdom, France, Germany, and Singapore have been the sites of terrorist activity, implementing the recommendations would require their citizens to fill in written applications and, in some cases, be interviewed before receiving a visa. The Attorney-General noted that doing this would harm the tourist industry, which is worth about A\$15 billion (about US\$11.55 billion) per year, and would be expensive and impractical. (*Sydney Morning Herald*, Jan. 8, 2004, at <http://www.smh.com.au/>; *The Australian*, Jan. 15, 2004, at <http://www.theaustralian.news.com.au/>; Centre for Independent Studies (Sydney), "Media Release 14/01/04," Jan. 14, 2004 at <http://www.cis.org.au/>.) (Donald DeGlopper, 7-9831)

## INTERNATIONAL LAW AND ORGANIZATIONS

### CHINA/UNITED NATIONS – Signing of Corruption Convention

On December 10, 2003, Chinese Vice-Minister of Foreign Affairs Zhang Yesui signed the United Nations Convention against Corruption on behalf of the People's Republic of China during a high-level political signing conference held in the city of Merida in Yucatan, Mexico. The Convention establishes a consensus-based framework to combat embezzlement, money laundering, bribery, and illicit gain at the

international level. Peter Eigen of Transparency International, which monitors and maintains an index of corruption around the world, said that the Convention would facilitate the development of a more effective mutual legal assistance system and make it easier to prosecute bribery cases.

China actively participated in the formulation of the Convention, which must be ratified by 30 countries before entering into force. In the view of a researcher with the Chinese Academy of Social Sciences, the Convention will not only help China recover some five billion *yuan* (US\$600 million) of assets stolen and taken abroad by corrupt officials, but will also have a major impact on deterring such acts and greatly reduce the chances of the perpetrators' evading prosecution. ("China Signs UN Act Against Corruption," *China Daily*, Dec. 11, 2003, at [http://www1.chinadaily.com.cn/en/doc/2003-12/11/content\\_289506.htm](http://www1.chinadaily.com.cn/en/doc/2003-12/11/content_289506.htm); "China Hopes To Recover Assets Taken Abroad by Corrupt Officials," *China Daily*, Oct. 15, 2003, at [http://www1.chinadaily.com.cn/en/doc/2003-10/05/content\\_269348.htm](http://www1.chinadaily.com.cn/en/doc/2003-10/05/content_269348.htm); [http://www.unodc.org/unodc/en/crime\\_convention\\_corruption.html](http://www.unodc.org/unodc/en/crime_convention_corruption.html).) (Wendy Zeldin, 7-9832)

### **CHINA/VIETNAM – Border Talks**

The tenth round of annual negotiations on border issues between China and Vietnam was held in Hanoi on January 9, 2004. The meeting was organized to discuss procedures to speed up the delineation of the common land border and the installation of markers, as well as to review progress on the border issue and on fishery cooperation since the last meeting. The goal is to finish the Agreement on Delineation and the Agreement on Fishery Cooperation in the first half of this year. Other matters related to the two countries' interests in the South China Sea were also discussed.

At the same time, meetings were held at the vice foreign ministerial level, covering bilateral relations and regional cooperation. (*Vietnam News Briefs*, Jan. 12, 2004, via LEXIS/NEXIS, Asiapac library.) (Constance A. Johnson, 7-9829)

### **COUNCIL OF ARAB MINISTERS OF INTERIOR – Decision To Criminalize Incitement of Terrorism**

At a meeting convened recently in Tunisia, the Council of Arab Ministers of Interior approved the amending of the Arab Convention for the Suppression of Terrorism (adopted in Cairo on Apr. 22, 1998) to criminalize the acts of inciting, printing, publishing, or acquiring printed materials or recordings that support terrorism. However, the Ministers made a distinction between terrorism and the right to oppose foreign occupation. (*Asharqalawsat Newspaper*, Jan. 6, 2004.) (Issam Saliba, 7-9840)

### **CUBA/RUSSIA – Tax Agreement Signed**

On January 20, 2004, Russia and Cuba signed an agreement for the exchange of information and cooperation in tax matters, which sets the stage for establishment of direct contacts between the tax agencies of the two countries. Russian Tax and Dues Minister Gennady Bukayev and Cuban Minister of Finance and Prices Georgina Barreiro signed the document in Havana. The Russian Minister stated that direct contacts between the tax ministries would contribute to bilateral economic cooperation. The Cuban Minister predicted that other economic cooperation agreements would follow. ("Russia, Cuba Sign Cooperation Agreement on Tax Issues," *ITAR-TASS*, Jan. 21, 2004, via FBIS.) (Sandra Sawicki, 7-9819)



**EU/US – Dispute Over the Byrd Amendment**

On January 15, 2004, the European Union requested that it be authorized by the World Trade Organization (WTO) to impose retaliatory measures against the United States, after the latter failed to meet the deadline of December 27, 2003, to repeal the Byrd amendment. In January 2003, the WTO had held that the Byrd amendment, which requires anti-subsidy and anti-dumping duties to be distributed to the companies, was illegal. The EU intends to impose an additional import duty on products originating in the US. A number of other countries, including Brazil, Canada, India, and Japan, have also requested WTO authorization to impose sanctions. (<http://europa.eu.int>.) (Theresa Papademetriou, 7-9857)

**GREECE/TURKEY – Gas Agreement**

In December 2003, Greece and Turkey concluded negotiations on the construction of a network designed to carry natural gas supplies from the Caspian Sea to Greece and Turkey. The project, which will commence this year, will be fully operational in 2006. Since 1999, the European Commission has played an instrumental role not only in initially negotiating the first economic agreement between the two countries, but also in granting funds in the amount of €5 million (about US\$ 6.2 million) to be used for technical and commercial feasibility studies. The Vice-President of the European Commission stated that the Commission welcomed such an agreement, which “will not only bolster peace and stability in the region but will also make it possible to supply new gas resources from the Caspian Basin and Iran to the internal gas market of an enlarged European Union, and to the Balkans.” (<http://europa.eu.int>.) (Theresa Papademetriou, 7-9857)

**IRAQ/TURKEY/UN – Accord on Kurdish Refugees**

Iraq, Turkey, and the United Nations have decided on the arrangements for the voluntary return of Kurdish refugees to Turkey. The January 22, 2004, agreement announced by the UN High Commissioner for Refugees (UNHCR) concerns the approximately 13,000 Kurds who have been living in northern Iraq for about ten years, largely in refugee camps.

The agreement concluded in Ankara, Turkey, includes assurances from Iraqi officials that no force will be brought to bear on the Kurds to return and that the UNHCR will be able to visit with them without restrictions, both in Iraq and after the return to Turkey. On the Turkish side, assurances have been given that the refugees will be free to return either to their former home areas or to any other place they choose within the country. (“UN in Accord on Voluntary Return of Ethnic Kurdish Refugees from Iraq to Turkey,” *UN News Service*, UNNEWS @UN.org, Jan. 23, 2004.) (Constance A. Johnson, 7-9829)

**ITALY/NIGERIA – Human Trafficking Agreement**

On January 20, 2004, Italy and Nigeria signed a memorandum designed to stop the flow into Italy of Nigerian victims of sexual exploitation. The agreement, signed in Rome by Italian prosecutor Piero Luigi Vigna, known for his anti-Mafia work, and Nigeria’s Attorney-General and Justice Minister Akinlolu Olujinmi, sets conditions for cooperation between the two countries on a United Nations program against human trafficking. The program, established by the UN Interregional Crime and Justice Research Institute and the UN Office on Drugs and Crime, includes greater judicial cooperation, public

awareness activities in the two countries, and steps to strengthen criminal justice bodies in Nigeria. (*UN News Service*, UNNEWS@UN.org, Jan. 21, 2004.)  
(Constance A. Johnson, 7-9829)

### **MEXICO/UNITED STATES – ICJ To Consider Case**

Mexico has asked the World Court to order the United States to retry 54 Mexicans now on death row in 10 states because they allegedly were not told of their right to consular help after being arrested, in violation of the 1963 Vienna Convention on Consular Relations to which both Mexico and the United States are parties. The public hearings before the International Court of Justice (ICJ) in the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America), which opened on December 15, 2003, were concluded on December 19, 2003. The Court is currently in the deliberation process.

Mexico accuses the United States of a systemic violation of its obligation under article 36 of the Convention to inform the 54 convicted Mexican nationals of their right to consular assistance and to provide relief adequate to redress such violation. Mexico is asking the ICJ to order the United States to dismiss or re-try the criminal cases involving inmates. Mexico also has requested the ICJ to declare that the right to consular notification under the Vienna Convention is a human right and that the United States must provide Mexico with a guarantee of non-repetition of the acts cited in the complaint. (International Court of Justice website, “Court Ready to Begin Its Deliberation,” <http://www.icj-cij.org>, Dec. 23, 2003.)  
(Gustavo Guerra, 7-7104)

### **SINGAPORE/JAPAN – Prospective Agreement on WMD Material Exports**

Singapore and Japan have agreed to sign a bilateral agreement to control the indirect export of equipment and materials that can be used in the making weapons of mass destruction (WMDs). The pact is reportedly to be concluded before the end of March 2004 at an international meeting on export controls. Japanese officials have stated that they expect to sign a similar agreement with Hong Kong. Under the Strategic Goods (Control) Act, which entered into effect on January 1, 2003, traders in Singapore must have a permit if they wish to ship or transship goods that can be used to make WMDs. Singapore is reportedly the first of the 10 ASEAN (Association of Southeast Asian Nations) Member States to control the shipment of sensitive strategic goods. (“Singapore, Japan Agree To Curb WMD Material Exports,” *BBC Monitoring International Reports*, Jan. 10, 2004, via LEXIS/NEXIS, News Library.)  
(Wendy Zeldin, 7-9832)

### **SUMMIT OF THE AMERICAS – Declaration of Nuevo Leon**

Thirty-four heads of state from the Western Hemisphere met in Monterrey, Mexico, from January 12 to 13, 2004, to consult on such critical regional issues as trade, immigration, reduction of poverty, social development, and democratic governance in the Americas. The U.S. delegation was lead by President George W. Bush. At the conclusion of the summit, the heads of state approved the “Declaration of Nuevo Leon,” which encapsulates the positions of the leaders and sets forth various lines of action. In the document, the nations emphasized the importance of the participation of the private sector in achieving the objectives and welcomed the progress achieved to date toward the establishment of the Free Trade Area of the Americas (FTAA). The Declaration also covers intensification of efforts to prevent HIV/AIDS and care for and treat victims, increasing the access to information technology, and strengthening the rule of law and the defense of human rights. (Organization of American States, “Declaration of Nuevo Leon,” via [http://www.oas.org/documents/SpecialSummitMexico/DeclaracionLeon\\_eng.pdf](http://www.oas.org/documents/SpecialSummitMexico/DeclaracionLeon_eng.pdf))  
(Sandra Sawicki, 7-9819)

## EUROPEAN UNION

### **“EUROPA” Website Acquires New Look**

In January 23, 2004, the 300,000 visitors to the European Union’s main website, “EUROPA,” encountered a new main page. The European Commission, which is in charge of the website, decided to take some measures to better serve the public at large, attract more young visitors, and improve the use of the website by making it more user-friendly. The new page includes graphs, has better navigation, is more efficient, and will include documents in 10 additional languages. (<http://europa.eu.int>) (Theresa Papademetriou, 7-9857)

### **List of Articles Banned on Airplanes**

On January 16, 2004, the EU, as part of its efforts to improve aviation security, adopted a new regulation containing a list of articles that passengers are prohibited from carrying aboard an aircraft. The list is not exhaustive; the intention is to update it regularly. The prohibited articles are grouped into the following categories: a) guns, firearms, and weapons; b) pointed/edged weapons and sharp objects; c) blunt instruments; d) explosive and flammable substances; and e) chemical and toxic substances. The Regulation also imposes the duty on airlines to inform the passengers of the list prior to the check-in procedure. (<http://europa.eu.int>) (Theresa Papademetriou, 7-9857)

### **New Regulation on Rights of Air Passengers**

A new regulation was recently adopted granting additional rights to air passengers across Europe, beyond those contained in the previous 1991 version. The regulation extends to scheduled and non-scheduled flights and covers passengers flying from Member States, plus those who depart from outside the EU on an EU airline. Among the new measures designed to reduce the frequency of denying boarding to passengers is a provision on offering compensation to air passengers, along with meals and accommodations and either ticket reimbursement or an alternative flight. The amount of compensation is linked to the length of the flight: €250 (about US\$310) for flights of less than 1500 km, €400 for flights of 1500-3500 km and intra-Community flights, and €600 for all other flights. Airlines are also obliged to compensate passengers for cancelled flights, unless they notify the passengers two weeks before the scheduled departure. (<http://europa.eu.int>) (Theresa Papademetriou, 7-9857)